

CAROLYN MATTHEWS,

Appellant

v.

NEW BOARD OF SCHOOL COMMISSIONERS OF EDUCATION
FOR BALTIMORE CITY,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

Opinion No. 02-04

OPINION

Appellant, a tenured teacher with Baltimore City Public Schools (“BCPS”), contests her termination from employment with BCPS based on incompetence. The local board maintains that the termination decision should be upheld.

Following the CEO’s issuance of a statement of charges seeking Appellant’s termination, a hearing examiner conducted a full evidentiary hearing and recommended that the local board deny the CEO’s recommendation. Neither the Appellant nor BCPS filed exceptions to the hearing examiner’s recommendation. On June 19, 2001, the local board voted unanimously to reject the recommendation of the hearing examiner and affirm the recommendation of the CEO to dismiss Appellant for incompetency. The decision is set forth by order dated September 4, 2001 absent any supporting rationale.

Following an appeal to the State Board, the matter was transferred to the Office of Administrative Hearings where Appellant submitted a Motion for Summary Decision.¹ By agreement of the parties, oral argument on Appellant’s Motion was conducted over the telephone with the Administrative Law Judge. The ALJ issued a decision on the Motion for Summary Decision in favor of the Appellant concluding that the local board was required to provide a rationale for rejecting the recommendation of the hearing examiner and terminating Appellant. The ALJ ordered that the matter be remanded to the local board for the issuance of a written decision with a clear statement of the rationale for the decision.²

¹Pursuant to the regulations governing appeals to the State Board, the motion should have been entitled “Motion for Summary Affirmance.” COMAR 13A.01.01.03K. This misnomer is of no consequence however given that the standard of review for motion for summary decision and a motion for summary affirmance are essentially the same. *See* COMAR 28.02.01.16D.

²Although the ALJ issued a final decision on the motion, the decision should be treated as a proposed recommendation to the State Board in accordance with COMAR 13A.01.01.03P(2)(c). The State Board makes the final decision in an appeal. COMAR 13A.01.01.03P(5).

In her opinion, the ALJ relied on the analysis of the State Board in *Corbin v. New Baltimore City Board of School Commissioners*, MSBE Opinion No. 00-44 (October 2, 2000) which interpreted the requirement that a local board render a decision to include the requirement that the local board provide “a clear statement of rationale for its decision”. The ALJ also relied on similar reasoning by the Court of Special Appeals in *Department of Health and Mental Hygiene v. Shrieves*, 100 Md. App. 283 (1994)(specifically relied upon by the State Board in the *Corbin* decision). In conclusion, the ALJ stated:

After careful consideration, I do not believe there is any reason that the analysis contained in *Shrieves* should not apply in these cases even though there is an additional opportunity for a hearing on the merits before the OAH. If the case proceeded at the OAH without any explanation from the Board as to why it rejected the recommendation from its Hearing Examiner, the record will be deficient in that a reviewing court will not be able to discern the rationale of the Board in rejecting the recommendation of its Hearing Examiner. Neither the OAH nor MSDE can supply the missing rationale and for that reason the case must be remanded to the Board to clearly explain its decision. To continue without the necessary rationale would be both contrary to Md. Code Ann., Educ. §6-203(e)(1) and would impede rather than further “judicial economy.”

We concur with the ALJ’s reasoning.

We note that Appellant has submitted objections to the ALJ’s proposed decision and has requested that the State Board order reinstatement and back pay pending the issuance of a written decision with a clear rationale by the local board. However, we believe that any award of reinstatement and back pay would be premature. The posture of this case is that the local board made its decision and issued an order terminating Appellant from employment effective June 19, 2001. The order did not set forth the rationale of the local board in rejecting the hearing examiner’s recommendation. The case is therefore being remanded with a requirement that the local board provide a written statement of its rationale. Once that is received, if the Appellant is not satisfied, she may pursue an appeal which the State Board would then review on its merits. If the State Board were to reverse and order that Appellant be reinstated, Appellant at that time would be entitled to back pay from the June 19, 2001 date of termination.

CONCLUSION

For these reasons, we are remanding this matter to the New Board of School Commissioners for Baltimore City and directing the New Board to issue a written decision that provides a clear rationale for rejecting the hearing examiner’s recommendation and terminating Appellant from employment with the Baltimore City Public School System. We further request

that the New Board issue its written decision and rationale no later than 30 days from the date of this opinion.

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February 6, 2002